

REMARKS

The foregoing amendments and following remarks present a complete and timely response to the non-final Office Action mailed November 3, 2004. Upon entry of the foregoing amendments, claims 1, 9, 14, 18, 27, 31, and 32 have been amended. Claims 1, 4 - 10, 12 - 21, 27 - 29, and 31 - 33 remain pending. Claims 2, 3, 11, 22 - 26, and 30 were canceled via previous amendments.

Applicants submit that the subject matter of amended claims 1, 9, 14, 18, and 27 is supported in at least FIGs. 4, 6, and 7A - 7D and the related detailed description of Applicants' original specification. Thus, no new matter is added to the application.

Reconsideration and allowance of the application and presently pending claims are respectfully requested.

I. Claim Rejections under 35 U.S.C. § 112 - Claims 31 - 33

A. Statement of the Rejection

Claims 31 - 33 presently stand rejected under 35 U.S.C. § 112, second paragraph, as allegedly being incomplete. Specifically, the Office Action indicates that the claims depend from a canceled claim and cannot be reasonably interpreted.

B. Discussion of the Rejection - Claims 31 - 33

Applicants have amended claims 31 and 32 to depend from independent claim 27. Claim 33 depends from claim 32. Accordingly, the rejection of claims 31 - 33 has been overcome and Applicants respectfully request that the rejection be withdrawn.

II. Claim Rejections under 35 U.S.C. § 102 - Claims 1, 4 - 8, 14 - 17, and 27 - 29

A. Statement of the Rejection

Claims 1, 4 - 8, 14 - 17, and 27 - 29 presently stand rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by U.S. Patent 6,795,912 to Itoh *et al.*, hereafter *Itoh*.

B. Discussion of the Rejection - Claims 1, 4 - 8, 14 - 17, and 27 - 29

A proper rejection of a claim under 35 U.S.C. § 102 requires that a single prior-art reference disclose each element, feature, or step of the claim. See *e.g.*, *E.I. du Pont de*

Nemours & Co. v. Phillips Petroleum Co., 849 F.2d 1430, 7 USPQ2d 1129. (Fed. Cir. 1988.)

Applicants respectfully request that the Office reconsider the rejection in light of the amendments to independent claims 1, 14, and 27. For example, Applicants' independent claim 1, as amended, recites a boot memory that comprises "a configuration file including information that directs the microprocessor to one or more locations within one of the fixed storage devices and a random access memory." *Itoh* does not disclose, teach, or suggest this feature. For at least the reason that *Itoh* fails to disclose, teach, or suggest a boot memory that comprises "a configuration file including information that directs the microprocessor to one or more locations within one of the fixed storage device and a random access memory," Applicants' independent claim 1 is not anticipated by *Itoh*. Accordingly, independent claim 1 is allowable over *Itoh*.

Because independent claim 1 is allowable, pending dependent claims 4 - 8, which depend directly or indirectly from claim 1, are also allowable for at least the reason that *Itoh* does not disclose, teach, or suggest Applicants' claimed boot memory. *See In re Fine*, 837, F.2d 1071, 5 U.S.P.Q.2d 1596, 1598. (Fed. Cir. 1988.). Accordingly, Applicants respectfully request that the rejection of claims 1 and 4 - 8 be withdrawn.

By way of further example, Applicants' independent claim 14, as amended, recites a computer system that writes a configuration file to a fixed memory, the configuration file including "information that directs the computer system to one or more locations within the memory device." *Itoh* does not disclose, teach, or suggest this feature. For at least the reason that *Itoh* fails to disclose, teach, or suggest "a configuration file including information that directs the computer system to one or more locations within the memory device," Applicants' independent claim 14 is not anticipated by *Itoh*. Accordingly, independent claim 14 is allowable over *Itoh*.

Because independent claim 14 is allowable, pending dependent claims 15 - 17, which depend directly or indirectly from claim 14, are also allowable for at least the reason that *Itoh* does not disclose, teach, or suggest Applicants' claimed computer system. *See In re Fine, supra*. Accordingly, Applicants respectfully request that the rejection of claims 14 - 17 be withdrawn.

In addition, Applicants' independent claim 27, as amended, recites a computer system that includes a storage device containing a firmware patch. The firmware patch comprises "a patch memory map comprising an index that identifies the location of and

directs the computer system to execute instructions stored at one or more locations.” *Itoh* does not disclose, teach, or suggest this feature. For at least the reason that *Itoh* fails to disclose, teach, or suggest “a patch memory map comprising an index that identifies the location of and directs the computer system to execute instructions stored at one or more locations,” Applicants’ independent claim 27 is not anticipated by *Itoh*. Accordingly, independent claim 27 is allowable over *Itoh*.

Because independent claim 27 is allowable, pending dependent claims 28 and 29, which depend directly from claim 27, are also allowable for at least the reason that *Itoh* does not disclose, teach, or suggest Applicants’ claimed computer system. See *In re Fine, supra*. Accordingly, Applicants respectfully request that the rejection of claims 27 - 29 be withdrawn.

III. Claim Rejections under 35 U.S.C. § 103 - Claims 9, 10, 12, 13, and 18 - 21

A. Statement of the Rejection

Claims 9, 10, 12, 13 presently stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over *Itoh* in view of U.S. Patent 6,718,373 to Bearden *et al.*, hereafter *Bearden*.

Claims 18 - 21 presently stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over *Itoh* in view of *Bearden* further in view of U.S. Patent 5,878,256 to Bealkowski *et al.*, hereafter *Bealkowski*.

B. Discussion of the Rejection - Claims 9, 10, 12, 13, and 18 - 21

In order for a claim to be properly rejected under 35 U.S.C. §103, the combined teachings of the prior art references must suggest all features of the claimed invention to one of ordinary skill in the art. See, *e.g.*, *In Re Dow Chemical*, 5 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1988), and *In re Keller*, 208 U.S.P.Q.2d 871, 881 (C.C.P.A. 1981).

Applicants respectfully request that the Office reconsider the rejection in light of the amendments to independent claims 9 and 18. For example, Applicants’ independent claim 9, as amended, recites “a transfer of a patch memory map and a firmware upgrade patch to the plurality of computer systems, the firmware upgrade patch comprising a bootable kernel different from an operating system operable on the respective computer system, the patch memory map comprising information that directs a computer system to execute instructions stored at one or more locations.” The proposed combination of *Itoh*

and *Bearden* does not disclose, teach, or suggest this feature. For at least the reason that the proposed combination fails to disclose, teach, or suggest “a transfer of a patch memory map and a firmware upgrade patch to the plurality of computer systems, the firmware upgrade patch comprising a bootable kernel different from an operating system operable on the respective computer system, the patch memory map comprising information that directs a computer system to execute instructions stored at one or more locations,” Applicants’ independent claim 9 is not rendered obvious by *Itoh* and *Bearden*. Accordingly, independent claim 9 is allowable over the proposed combination.

Because independent claim 9 is allowable, pending dependent claims 10, 12, and 13, which depend directly from claim 9, are also allowable for at least the reason that the proposed combination does not disclose, teach, or suggest Applicants’ claimed computer network. *See In re Fine, supra*. Accordingly, Applicants respectfully request that the rejection of claims 9, 10, 12, and 13 be withdrawn.

By way of further example, Applicants’ independent claim 18, as amended, recites “delivering a firmware install patch containing firmware, an install application, a configuration file, and a flash application to a boot disk within a plurality of networked computer systems.” The claimed method further recites “modifying an initial system loader in response to the install application to direct a microprocessor to execute instructions identified by one or more memory locations identified within the configuration file upon a subsequent microprocessor reset input.” The proposed combination of *Itoh*, *Bearden*, and *Bealkowski* does not disclose, teach, or suggest this feature. For at least the reason that the proposed combination fails to disclose, teach, or suggest “modifying an initial system loader in response to the install application to direct a microprocessor to execute instructions identified by one or more memory locations identified within the configuration file upon a subsequent microprocessor reset input,” Applicants’ independent claim 18 is not rendered obvious by the proposed combination. Accordingly, independent claim 18 is allowable.

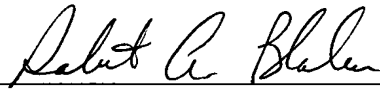
Because independent claim 18 is allowable, pending dependent claims 19 - 21 which depend directly from claim 18, are also allowable for at least the reason that the proposed combination does not disclose, teach, or suggest Applicants’ claimed method for upgrading firmware. *See In re Fine, supra*. Accordingly, Applicants respectfully request that the rejection of claims 18 - 21 be withdrawn.

CONCLUSION

In summary, Applicants' claims 1, 4 - 10, 12 - 21, 27 - 29, and 31 - 33 are allowable over the cited art of record and the present application is in condition for allowance. Accordingly, a Notice of Allowance is respectfully solicited. Should the Examiner have any comments regarding the Applicants' response, Applicants request that the Examiner telephone Applicants' undersigned attorney.

Respectfully submitted,

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